

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

NATHANIEL REALTY, LLC and
HOWARD L. SHACKELFORD, MD,

Plaintiffs,

vs.

STATE FARM FIRE AND CASUALTY
COMPANY,

Defendant.

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CIVIL ACTION NO. 18-C-116

Judge REW

COMPLAINT

NOW COME the plaintiffs, Nathaniel Realty, LLC and Howard L. Shackelford, MD, who for their complaint against the defendant, State Farm Fire and Casualty Company, allege as follows:

1. The plaintiff, Nathaniel Realty, LLC, is a limited liability company organized under Ohio law with its principal office located in St. Clairsville, Belmont County, Ohio.
2. The plaintiff, Howard L. Shackelford, MD, is and has been at all times material and relevant herein, a resident of Ohio County, West Virginia.
3. The plaintiff, Howard L. Shackelford, MD, at all times material and relevant herein, has been the sole member and owner of Nathaniel Realty, LLC.
4. The defendant, State Farm Fire and Casualty Company, is a corporation organized under Illinois law with its principal office located in Bloomington, Illinois. The defendant actively does business and issues policies of insurance throughout the State of West Virginia, including Ohio County.



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EXHIBIT

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5. The plaintiff, Nathaniel Realty, LLC, is the owner of a parcel of land and dwelling located at 57561 Kennonsburg Road, Salesville, Ohio 43778, hereinafter referred to as "the dwelling."

6. At all relevant times, the plaintiff, Nathaniel Realty, LLC, was covered by an insurance policy issued by the defendant, State Farm, that being Policy number 95-CJ-J527-4, which policy insured the dwelling. A copy of the policy is not attached to this complaint inasmuch as the defendant is already in possession of the same.

7. At all relevant times, the plaintiff, Howard L. Shackelford, MD, was the owner of a residential dwelling located at 10 Bachmann Drive, Wheeling, West Virginia 26003 and said property was covered by a homeowners policy issued to the plaintiff, Howard L. Shackelford, MD, by Defendant, State Farm Fire and Casualty Company, policy number 48-BD-7261-9.

8. All premiums due and owing on the policies referenced in Paragraphs 6 and 7 above were timely paid and the policies were in full force and effect in July, 2017.

9. In July, 2017, it was discovered that the attic of the dwelling insured by policy number 95 -CJ-J527-4 and located at 57561 Kennonsburg Road, Salesville, Ohio was infested with hundreds of bats.

10. The plaintiffs promptly notified the defendant of the infestation. However, the defendant deemed the situation to be too dangerous and, therefore, refused to conduct an inspection. The defendant advised the plaintiffs that they were responsible for eliminating the infestation. Then and only then would the defendant inspect the dwelling.

11. By letter dated August 22, 2017, approximately one month after it was notified of the bat infestation, the defendant illegitimately cancelled the insurance policy referenced in paragraph 4 above effective September 26, 2017.

12. According to the defendant's August 22, 2017 termination letter, coverage was being terminated because the dwelling was not occupied--despite the fact that the dwelling was, and still is, occupied.

13. Thereafter, in December 2017, the plaintiffs contracted with a company to eliminate the bat infestation and to effect repairs. The reasonable charge for these services was \$14,550, which was paid by the plaintiff, Nathaniel Realty, LLC.

14. After completing the repairs to the dwelling necessitated by the damage resulting from the bat infestation, the plaintiffs notified State Farm and requested that State Farm reimburse the plaintiff, Nathaniel Realty, LLC, the costs associated with said repairs.

15. The defendant finally sent a representative to conduct an inspection of the dwelling on February 26, 2018. By letter dated February 27, 2018 the defendant denied the claim presented by the Plaintiffs with respect to the costs associated with the repair of the dwelling.

16. Upon receipt of the February 27, 2018 denial letter, the plaintiffs hired counsel to attempt to obtain the benefits to which Plaintiffs are entitled. Counsel for the Plaintiffs forwarded a letter to State Farm dated March 26, 2018 asking it to reconsider its coverage denial.

17. State Farm refused to reconsider its coverage denial by letter dated April 4, 2018.

18. After receiving the March 26, 2018 letter from counsel for plaintiffs requesting reconsideration of the denial of the claims presented by the plaintiffs with respect to the damages to the dwelling caused by the bat infestation, the defendant illegitimately cancelled the homeowners Insurance policy of Plaintiff, Howard L. Shackelford, MD, which policy is referenced in Paragraph 7 above.

19. The plaintiffs fully complied with the terms and provisions of policy numbers 95-CJ-J527-4 and 48-BD-7261-9.

20. Policy number 95-CJ-J527-4 is a comprehensive, all-perils policy that covers all damage to the insured premises unless a peril is specifically excluded by the policy terms. The policy does not contain any language that would exclude coverage for the damage caused by the bat infestation which was the subject of the plaintiffs' claim.

21. The plaintiff, Nathaniel Realty, LLC, is entitled to benefits under the insurance policy referenced in paragraph 6 above in the full amount of the costs incurred to eliminate the bat infestation and repair the damages caused by the infestation.

22. The defendant has refused to pay and/or offer to pay any of the benefits that are due and owing to the plaintiffs.

23. The defendant arbitrarily, capriciously and/or maliciously refused to promptly, fairly and in good faith adjust, evaluate and negotiate the plaintiffs' claim for benefits under circumstances that did not furnish a reasonable justification therefor.

24. Implied in the policy of Insurance Issued by the defendant was a covenant requiring it to adjust, evaluate, and negotiate the plaintiffs claim fairly and in good faith.

25. The defendant breached the implied covenant of good faith and fair dealing in connection with its handling of the plaintiffs' claim for benefits and its illegitimate cancellation of the policies of insurance issues to the plaintiff, Nathaniel Realty, LLC, as well as the illegitimate cancellation of the homeowners policy of the Plaintiff, Howard L. Shackelford, MD.

26. As a result of the illegitimate cancellation of his homeowners policy, the plaintiff, Howard L. Shackelford, MD, was greatly inconvenienced, annoyed, angered, frustrated and forced to spend valuable time rectifying the cancellation and searching for and obtaining alternative insurance.

27. The defendant's conduct in connection with the handling of the claims presented as a result of the damage to the dwelling caused by the bat infestation and the defendant's conduct in connection with the cancellation of the policies of insurance it issued to the plaintiff, Nathaniel Realty, LLC, and the plaintiff, Howard L. Shackelford, MD, was intentional and was done with a state of mind characterized by ill-will and a spirit of revenge and/or with a conscious disregard for the plaintiffs' rights.

28. As a result of the defendant's conduct, the plaintiffs were forced to incur expenses and costs, including attorney fees, to pursue their claim for benefits to which they are entitled.

29. As a result of the defendant's conduct, the plaintiffs suffered a loss of use of the dwelling and were otherwise inconvenienced.

30p. As a result of the defendant's intentional conduct, the plaintiffs are entitled to recover punitive damages in an amount sufficient to punish the defendant and to deter it, and other insurance companies, from engaging in similar conduct in the future.

WHEREFORE, the plaintiffs, Nathaniel Realty, LLC and Howard L. Shackelford, MD, demand judgment over and against the defendant, State Farm Fire and Casualty Company, for compensatory and general damages and for punitive damages, in an amount to be determined by a jury, as well as statutory pre and post judgment interest as permitted by law and attorney fees, costs and expenses incurred in pursuit of the claims set forth herein.

A TRIAL BY JURY IS DEMANDED ON ALL ISSUES

NATHANIEL REALTY, LLC, and HOWARD
SHACKELFORD, MD, Plaintiffs

By: 

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